

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

REC'D 30 AUG 2004

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To:
GLENN WAKEFIELD
1416 EAST CARMER STREET
TEMPE, AZ 85283-4142

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Date of mailing
(day/month/year) **27 AUG 2004**

Applicant's or agent's file reference

FOR FURTHER ACTION

See paragraph 2 below

International application No.

International filing date (day/month/year)

Priority date (day/month/year)

PCT/US04/09471

29 March 2004 (29.03.2004)

03 April 2003 (03.04.2003)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): A61B 1/00 and US Cl.: 600/160, 117

Applicant

WAKEFEILD, GLENN

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☒ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Authorized officer

John P. Leubecker

Telephone No. (703) 308-0858

Sheila H. Vandy
Paralegal Specialist
Tech. Center 3700

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/09471

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

☐ a sequence listing

☐ table(s) related to the sequence listing

b. format of material

☐ in written format

☐ in computer readable form

c. time of filing/furnishing

☐ contained in international application as filed.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
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International application No.
PCT/US04/09471

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>9</u>	YES
	Claims <u>1-8 and 10</u>	NO
Inventive step (IS)	Claims <u>9</u>	YES
	Claims <u>1-8 and 10</u>	NO
Industrial applicability (IA)	Claims <u>1-10</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Claims 1-8 and 10 lack novelty under PCT Article 33(2) as being anticipated by Alfano et al. Applicable to the claims as best understood, Alfano et al. disclose a magnetically controlled (col.5, lines 16-20) capsule that can be physically connected (Figs. 11a, 11b) or not physically connected (Fig. 2), including an imaging device/electromagnetic wave detector (25), a light source (23), a laser (19) which could allow for biopsy/excision, a wireless communication system (21), and a power generation system (27, col.5, lines 48-65).

Claims 1-4, 6, and 8-10 lack novelty under PCT Article 33(2) as being anticipated by Yokoi et al. Applicable to the claims as best understood, Yokoi et al. disclose a magnetically responsive capsule (note [0160]) including magnets (43a, 43c), light sources (19), imaging lenses (16), image (electromagnetic) sensor (18), antenna (31), memory ([0179]), transmitting/receiving circuit (30), power source (29), power lines (23), and sensors such as temperature, pH, and position ([0179]).

Claims 1-10 meet the criteria set out in PCT Article 33(4), and thus meet industrial applicability because the subject matter claimed can be made or used in industry.

**WRITTEN OPINION OF THE
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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the questions whether the claims are fully supported by the description, are made:

Claims 1-10 are objected to under PCT Rule 66.2(a)(v) as lacking clarity under PCT Article 6 because claims 1-10 are indefinite for the following reason(s): claims 1-10 fail to provide a clear scope of subject matter intended to be claimed.